



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 29, 2017

Ms. Charla Thomas  
Deputy City Attorney  
City of Temple  
2 North Main Street, Suite 308  
Temple, Texas 76501

OR2017-19679

Dear Ms. Thomas:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 673353.

The City of Temple (the "city") received a request for all information relating to a specified accident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You state Exhibit C consists of a police officer's body worn camera recordings. Body worn cameras are subject to chapter 1701 of the Occupations Code. Chapter 1701 provides the procedures a requestor must follow when seeking a body worn camera recording. Section 1701.661 provides, in relevant part, the following:

(a) A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body worn camera:

- (1) the date and approximate time of the recording;
- (2) the specific location where the recording occurred; and
- (3) the name of one or more persons known to be a subject of the recording.

Occ. Code § 1701.661(a). In this instance, the requestor does not provide the requisite information under section 1701.661(a). As the body worn camera recording at issue, which we have indicated in Exhibit C, was not properly requested pursuant to chapter 1701 of the Occupations Code, our ruling does not reach this information and it need not be released.<sup>1</sup> However, pursuant to section 1701.661(b), a “failure to provide all the information required by [s]ubsection (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.” *Id.* § 1701.661(b). We find the remaining recordings in Exhibit C are dashboard camera recordings, not a police officer’s body worn camera recordings. Therefore, the remaining information in Exhibit C is not subject to section 1701.661 of the Occupations Code. Accordingly, we will consider if the remaining information in Exhibit C is otherwise excepted under the Act.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses section 181.006 of the Health and Safety Code. Section 181.006 states that:

For a covered entity that is a governmental unit, an individual’s protected health information:

- (1) includes any information that reflects that an individual received health care from the covered entity; and
- (2) is not public information and is not subject to disclosure under [the Act].

Health & Safety Code § 181.006. Section 181.001(b)(2) defines “[c]overed entity,” in part, as “any person who:

- (A) for commercial, financial, or professional gain, monetary fees, or dues, or on a cooperative, nonprofit, or pro bono basis, engages, in whole or in part, and with real or constructive knowledge, in the practice of assembling, collecting, analyzing, using, evaluating, storing, or transmitting protected health information. The term includes a business associate, health care payer, governmental unit, information or computer management entity, school, health researcher, health care facility, clinic, health care provider, or person who maintains an Internet site[.]

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<sup>1</sup>As our ruling on this issue is dispositive, we do not address your remaining arguments against disclosure of this information.

*Id.* § 181.001(b)(2)(A). You do not inform us the city is a covered entity for purposes of section 181.006 of the Health and Safety Code. Thus, we find you have failed to demonstrate any portion of Exhibit D is subject to section 181.006 of the Health and Safety Code, and the city may not withhold it under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses section 773.091 of the Health and Safety Code, which provides, in relevant part:

(b) Records of the identity, evaluation or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

...

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

*Id.* § 773.091(b), (g). Except for the information specified in section 773.091(g), emergency medical services (“EMS”) records are deemed confidential under section 773.091. Upon review, we find Exhibit D constitutes records of the identity, evaluation, or treatment of a patient by EMS personnel. Thus, except for the information subject to section 773.091(g), the city must withhold Exhibit D under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108(a)(1) must explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state Exhibit B relates to pending criminal matters. Based upon your representation and our review, we find section 552.108(a)(1) is applicable to Exhibit B. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the city may withhold Exhibit B under section 552.108(a)(1).

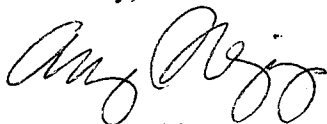
Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.<sup>2</sup> Gov't Code § 552.130. Accordingly, the city must withhold the audible and visible license plates in the remaining recordings in Exhibit C under section 552.130 of the Government Code.

In summary, as the requestor did not properly request the body worn camera recording in Exhibit C, which we have indicated, pursuant to chapter 1701, our ruling does not reach this information and it need not be released. Except for the information subject to section 773.091(g), the city must withhold the information in Exhibit D under section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code. The city may withhold Exhibit B under section 552.108(a)(1) of the Government Code. The city must withhold the audible and visible license plates in the remaining recordings in Exhibit C under section 552.130 of the Government Code. The city must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 673353

Enc. Submitted documents

c: Requestor  
(w/o enclosures)